

PROPOSED AMENDMENT

SENATE AMENDMENTS TO H.B. 2732

(Reference to House engrossed bill)

Page 1, between lines 1 and 2, insert:

“Section 1. Section 28-2154, Arizona Revised Statutes, is amended to read:

28-2154. Special registrations

A. A nonresident who purchases an unregistered vehicle in this state for removal to the state of residence of the purchaser shall obtain a special ninety day nonresident registration permit for the vehicle. The nonresident shall obtain the special ninety day nonresident registration permit by applying to the department, to an authorized third party or to a motor vehicle dealer as defined in section 28-4301 and by paying the fees prescribed by section 28-2003. **UNLESS THE NONRESIDENT PURCHASER HAS COMPLETED A FORM PRESCRIBED BY SECTION 42-5009, SUBSECTION I** An affidavit in a form prescribed by the director shall accompany the application and shall contain the following statements:

1. The purchaser is not a resident of this state as defined in section 28-2001. For the purposes of this section and section 28-2154.01, the purchaser shall present to the department, an authorized third party or a motor vehicle dealer a driver license or other evidence prescribed by the director showing that the purchaser is not a resident of this state.

2. The vehicle is purchased to be registered out of state within ninety days after the issuance of the special ninety day nonresident registration permit.

3. The vehicle is not purchased for transfer to a resident of this state.

~~4. The purchaser is liable for any tax, penalty and interest that is due under title 42, chapter 5 if the purchaser registers the vehicle in this state within three hundred sixty-five days after the issuance of the special ninety day nonresident registration permit.~~

~~5.~~ 4. Other information that the director deems necessary.

1           B. At the time of application for a special ninety day nonresident  
2 registration permit, the purchaser shall submit for inspection proper  
3 evidence of ownership of the vehicle to be registered. The special ninety  
4 day nonresident registration permit is valid for not more than ninety days  
5 from the date of issuance and shall be in the form prescribed by the  
6 director. A person who obtains a special ninety day nonresident registration  
7 permit on a semitrailer that has been manufactured in this state may use the  
8 semitrailer for commercial purposes if the semitrailer is being used to  
9 transport goods from this state, subject to the payment of any taxes  
10 prescribed by this title.

11           C. An enrolled member of an Indian tribe who resides on the Indian  
12 reservation established for that tribe and who purchases an unregistered  
13 vehicle in this state for removal to the Indian reservation shall obtain a  
14 special ninety day nonresident registration permit for the vehicle. The  
15 member may obtain the special ninety day nonresident registration permit by  
16 applying to the department, to an authorized third party or to any motor  
17 vehicle dealer as defined by section 28-4301 and by payment of the fees  
18 prescribed by section 28-2003.

19           D. A resident who does not have complete documentation for issuance of  
20 an Arizona title and registration on a noncommercial vehicle but who has  
21 established ownership of the vehicle to the satisfaction of the department  
22 may receive a special ninety day resident registration by applying and paying  
23 the fee prescribed by section 28-2003 to the department. The basis of  
24 assessment for the full annual registration fee and vehicle license tax  
25 relates back to the date of issuance of the first special ninety day resident  
26 registration.

27           E. A resident may receive a second consecutive special ninety day  
28 resident registration on application and payment of the fee prescribed by  
29 section 28-2003 if:

30           1. The person has applied for a bonded title and the title has not  
31 been issued during the first ninety day registration.

32           2. The person is awaiting settlement of an estate.

3. The person is awaiting lien clearance.

4. The person is awaiting a hearing decision as a result of a title complaint.

5. The person is awaiting the issuance of honorary consular official special license plates.

6. The director determines other circumstances justify the issuance.

F. At the discretion of the director, a resident may receive more than two consecutive special ninety day resident registrations for a vehicle in a twelve month period.

G. If there is a judgment against a resident of this state in another state that requires suspension of the resident's vehicle registration, in lieu of suspension of the resident's vehicle registration the department may issue a special temporary registration for the resident's vehicle that is valid for a period of not more than one hundred eighty days."

Renumber to conform

Line 21, after "28-2154" insert "OR COMPLETES A FORM PRESCRIBED BY SECTION 42-5009, SUBSECTION I"

Line 23, after "STATE" insert "INDICATING AN ADDRESS OUTSIDE OF ARIZONA.  
(d)"

Strike lines 24 and 25

Line 26, strike "PURCHASER" strike "ON"

Line 27, strike "THE AFFIDAVIT"; after "transportation" insert "PURSUANT TO SECTION 28-2154"

Line 28, after "revenue" insert "PURSUANT TO SECTION 42-5009, SUBSECTION I"

Renumber to conform

Page 2, line 8, after "with" insert "THE REQUIREMENTS OF"

Line 17, strike "TAX"

Line 20, after "A" insert a comma; after the second "SECTION" insert ", AND SECTION 42-5009, SUBSECTION I"

Strike lines 25 through 28

Reletter to conform

Line 30, after "state" strike remainder of line

Page 2, Strike line 31

Line 32, strike "VEHICLE TO A NONRESIDENT PURCHASER"; strike "exemptions" insert  
"DEDUCTIONS"

Line 33, after the second comma strike remainder of line

Strike lines 34 through 37, insert "PARAGRAPH 28, SUBDIVISION (a), AND  
SUBSECTION U.

Sec. 3. Section 42-5009, Arizona Revised Statutes, is amended to read:

42-5009. Certificates establishing deductions: liability for  
making false certificate

A. A person who conducts any business classified under article 2 of this chapter may establish entitlement to the allowable deductions from the tax base of that business by both:

1. Marking the invoice for the transaction to indicate that the gross proceeds of sales or gross income derived from the transaction was deducted from the tax base.

2. Obtaining a certificate executed by the purchaser indicating the name and address of the purchaser, the precise nature of the business of the purchaser, the purpose for which the purchase was made, the necessary facts to establish the appropriate deduction and the tax license number of the purchaser to the extent the deduction depends on the purchaser conducting business classified under article 2 of this chapter and a certification that the person executing the certificate is authorized to do so on behalf of the purchaser. The certificate may be disregarded if the seller has reason to believe that the information contained in the certificate is not accurate or complete.

B. A person who does not comply with subsection A of this section may establish entitlement to the deduction by presenting facts necessary to support the entitlement, but the burden of proof is on that person.

C. The department may prescribe a form for the certificate described in subsection A of this section. Under such rules as it may prescribe, the department may also describe transactions with respect to which a person is not entitled to rely solely on the information contained in the certificate

1 provided for in subsection A of this section but must instead obtain such  
2 additional information as required by the rules in order to be entitled to  
3 the deduction.

4 D. If a seller is entitled to a deduction by complying with subsection  
5 A of this section, the department may require the purchaser which caused the  
6 execution of the certificate to establish the accuracy and completeness of  
7 the information required to be contained in the certificate which would  
8 entitle the seller to the deduction. If the purchaser cannot establish the  
9 accuracy and completeness of the information, the purchaser is liable in an  
10 amount equal to any tax, penalty and interest which the seller would have  
11 been required to pay under this article if the seller had not complied with  
12 subsection A of this section. Payment of the amount under this subsection  
13 exempts the purchaser from liability for any tax imposed under article 4 of  
14 this chapter. The amount shall be treated as ~~a transaction privilege tax to~~  
15 ~~the purchaser and as~~ tax revenues collected from the seller in order to  
16 designate the distribution base for purposes of section 42-5029.

17 E. If a seller is entitled to a deduction by complying with subsection  
18 B of this section, the department may require the purchaser to establish the  
19 accuracy and completeness of the information provided to the seller that  
20 entitled the seller to the deduction. If the purchaser cannot establish the  
21 accuracy and completeness of the information, the purchaser is liable in an  
22 amount equal to any tax, penalty and interest that the seller would have been  
23 required to pay under this article if the seller had not complied with  
24 subsection B of this section. Payment of the amount under this subsection  
25 exempts the purchaser from liability for any tax imposed under article 4 of  
26 this chapter. The amount shall be treated as ~~a transaction privilege tax to~~  
27 ~~the purchaser and as~~ tax revenues collected from the seller in order to  
28 designate the distribution base for purposes of section 42-5029.

29 F. The department may prescribe a form for a certificate used to  
30 establish entitlement to the deductions described in section 42-5061,  
31 subsection A, paragraph 47 and section 42-5063, subsection B, paragraph 3.  
32 Under rules the department may prescribe, the department may also require

1 additional information for the seller to be entitled to the deduction. If a  
2 seller is entitled to the deductions described in section 42-5061, subsection  
3 A, paragraph 47 and section 42-5063, subsection B, paragraph 3, the  
4 department may require the purchaser who executed the certificate to  
5 establish the accuracy and completeness of the information contained in the  
6 certificate that would entitle the seller to the deduction. If the purchaser  
7 cannot establish the accuracy and completeness of the information, the  
8 purchaser is liable in an amount equal to any tax, penalty and interest that  
9 the seller would have been required to pay under this article. Payment of  
10 the amount under this subsection exempts the purchaser from liability for any  
11 tax imposed under article 4 of this chapter. The amount shall be treated as  
12 ~~a transaction privilege tax to the purchaser and as~~ tax revenues collected  
13 from the seller in order to designate the distribution base for purposes of  
14 section 42-5029.

15 G. If a seller claims a deduction under section 42-5061, subsection A,  
16 paragraph 25 and establishes entitlement to the deduction with an exemption  
17 letter that the purchaser received from the department and the exemption  
18 letter was based on a contingent event, the department may require the  
19 purchaser that received the exemption letter to establish the satisfaction of  
20 the contingent event within a reasonable time. If the purchaser cannot  
21 establish the satisfaction of the event, the purchaser is liable in an amount  
22 equal to any tax, penalty and interest that the seller would have been  
23 required to pay under this article if the seller had not been furnished the  
24 exemption letter. Payment of the amount under this subsection exempts the  
25 purchaser from liability for any tax imposed under article 4 of this chapter.  
26 The amount shall be treated as ~~a transaction privilege tax to the purchaser~~  
27 ~~and as~~ tax revenues collected from the seller in order to designate the  
28 distribution base for purposes of section 42-5029. For the purposes of this  
29 subsection, "reasonable time" means a time limitation that the department  
30 determines and that does not exceed the time limitations pursuant to section  
31 42-1104.

1           H. From and after December 31, 2005 through December 31, 2010, the  
2 department shall prescribe a form for a certificate used to establish  
3 entitlement to the deductions described in section 42-5061, subsection B,  
4 paragraph 23, section 42-5070, subsection C, paragraph 2, section 42-5074,  
5 subsection B, paragraph 10, section 42-5075, subsection B, paragraph 20 and  
6 section 42-5159, subsection B, paragraph 23 relating to motion picture  
7 production. The certificate is effective for twelve consecutive calendar  
8 months from and after the date of issuance and is subject to the following  
9 requirements and conditions:

10           1. A motion picture production company as defined in section 41-1517  
11 may use a certificate issued pursuant to this subsection only with respect to  
12 production costs described in section 41-1517, subsection A, paragraph 2 that  
13 are subject to taxation under article 2 or 4 of this chapter.

14           2. The department shall issue the certificate to a motion picture  
15 production company on receiving the company's letter of qualification from  
16 the department of commerce, except as otherwise provided in this subsection.

17           3. The department shall not issue a certificate to a motion picture  
18 production company that has a delinquent tax balance owing to the department  
19 under this title or title 43.

20           4. If the department determines that a motion picture production  
21 company no longer qualifies for a certificate of exemption or has used the  
22 certificate of exemption for unauthorized purposes, the department shall  
23 revoke the certificate of exemption and the motion picture production company  
24 is liable for an amount equal to the transaction privilege and use taxes that  
25 would have been due on taxable transactions during the time the company did  
26 not qualify for or improperly used the certificate, with interest and  
27 penalties as provided by law.

28           5. The department shall maintain annual data on the total amount of  
29 monies exempted through the use of certificates issued pursuant to this  
30 subsection and shall provide those data to the department of commerce on  
31 request.

1           6. The department of revenue, with the cooperation of the department  
2 of commerce, shall adopt rules and publish and prescribe forms and procedures  
3 as necessary to effectuate the purposes of this subsection.

4           7. If, after audit, the department determines that a motion picture  
5 production company failed to meet any of the requirements prescribed by this  
6 subsection, any deductions from taxation from the use of the certificate are  
7 subject to recapture and payment by the motion picture production company to  
8 the department.

9           I. THE DEPARTMENT SHALL PRESCRIBE FORMS FOR CERTIFICATES USED TO  
10 ESTABLISH THE SATISFACTION OF THE CRITERIA NECESSARY TO QUALIFY THE SALE OF A  
11 MOTOR VEHICLE FOR THE DEDUCTIONS DESCRIBED IN SECTION 42-5061, SUBSECTION A,  
12 PARAGRAPHS 14, 28, SUBPARAGRAPH A, AND 45, AND SUBSECTION U. TO ESTABLISH  
13 ENTITLEMENT TO THESE DEDUCTIONS, A MOTOR VEHICLE SELLER SHALL RETAIN:

14           1. A VALID CERTIFICATE AS PRESCRIBED BY THIS SUBSECTION COMPLETED BY  
15 THE PURCHASER AND OBTAINED PRIOR TO THE ISSUANCE OF THE NONRESIDENT  
16 REGISTRATION PERMIT AUTHORIZED BY SECTION 28-2154.

17           2. A COPY OF THE NONRESIDENT REGISTRATION PERMIT AUTHORIZED BY SECTION  
18 28-2154.

19           3. A LEGIBLE COPY OF A CURRENT VALID DRIVERS LICENSE ISSUED TO THE  
20 PURCHASER BY A STATE OTHER THAN ARIZONA WHICH INDICATES AN ADDRESS OUTSIDE OF  
21 ARIZONA. FOR THE SALE OF A MOTOR VEHICLE TO A NONRESIDENT ENTITY, THE  
22 ENTITY'S REPRESENTATIVE MUST HAVE A CURRENT VALID DRIVER'S LICENSE ISSUED BY  
23 THE SAME JURISDICTION AS THAT IN WHICH THE ENTITY IS LOCATED.

24           4. FOR THE PURPOSES OF THE DEDUCTION PROVIDED BY SECTION 42-5061,  
25 SUBSECTION A, PARAGRAPH 14, A CERTIFICATE DOCUMENTING THE DELIVERY OF THE  
26 MOTOR VEHICLE TO AN OUT OF STATE LOCATION.

27           J. NOTWITHSTANDING SUBSECTION A, PARAGRAPH 2 OF THIS SECTION, IF A  
28 MOTOR VEHICLE SELLER HAS ESTABLISHED ENTITLEMENT TO A DEDUCTION BY COMPLYING  
29 WITH SUBSECTION I, PARAGRAPH 1 OF THIS SECTION, THE DEPARTMENT MAY REQUIRE  
30 THE PURCHASER WHO EXECUTED THE CERTIFICATE TO ESTABLISH THE ACCURACY AND  
31 COMPLETENESS OF THE INFORMATION CONTAINED IN THE CERTIFICATE THAT ENTITLED  
32 THE SELLER TO THE DEDUCTION. IF THE PURCHASER CANNOT ESTABLISH THE ACCURACY



1 AND COMPLETENESS OF THE INFORMATION, THE PURCHASER IS LIABLE IN AN AMOUNT  
2 EQUAL TO ANY TAX, PENALTY AND INTEREST THAT THE SELLER WOULD HAVE BEEN  
3 REQUIRED TO PAY UNDER THIS ARTICLE. PAYMENT OF THE AMOUNT UNDER THIS  
4 SUBSECTION EXEMPTS THE PURCHASER FROM LIABILITY FOR ANY TAX IMPOSED UNDER  
5 ARTICLE 4 OF THIS CHAPTER. THE AMOUNT SHALL BE TREATED AS TAX REVENUES  
6 COLLECTED FROM THE SELLER IN ORDER TO DESIGNATE THE DISTRIBUTION BASE FOR  
7 PURPOSES OF SECTION 42-5029.

8 K. NOTWITHSTANDING ANY LAW TO THE CONTRARY, COMPLIANCE WITH THE  
9 PROVISIONS OF SUBSECTION I OF THIS SECTION BY A MOTOR VEHICLE SELLER SHALL BE  
10 DEEMED TO ENTITLE THE MOTOR VEHICLE SELLER TO THE EXEMPTION PROVIDED IN  
11 SECTION 42-6004, SUBSECTION A, PARAGRAPH 4.

12 Sec. 4. Interim Application

13 For the period beginning on or after August 25, 2004, through the  
14 effective date of this act, a motor vehicle seller that has claimed a  
15 deduction under section 42-5061, subsection A, paragraphs 14 and 28,  
16 subparagraph A, and subsection U, and that has obtained from the purchaser of  
17 the motor vehicle: an affidavit of the purchaser's nonresident status, a copy  
18 of a current valid drivers license issued in the name of the purchaser by a  
19 state other than Arizona indicating an address in a state other than Arizona,  
20 and a special ninety day nonresident registration permit issued pursuant to  
21 section 28-2154, Arizona Revised Statutes shall be deemed to have complied  
22 with the requirements documenting a purchaser's nonresident status.  
23 Documentation of delivery of the motor vehicle outside of Arizona shall  
24 substantiate this requirement of the deduction provided section 42-5061,  
25 subsection A, paragraph 14. The subsequent use of the motor vehicle by the  
26 purchaser in the State of Arizona shall not disqualify the motor vehicle  
27 seller from the deduction provided by section 42-5061, subsection A,  
28 paragraphs 14 and 28, subparagraph A, and subsection U."

29 Amend title to conform

RON GOULD

3/24/08  
3:07 PM  
S: RD/ac